



1924

## Review of Important Decisions

C L. Young

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### Recommended Citation

Young, C L. (1924) "Review of Important Decisions," *North Dakota Law Review*. Vol. 1 : No. 10 , Article 2.  
Available at: <https://commons.und.edu/ndlr/vol1/iss10/2>

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## REVIEW OF IMPORTANT DECISIONS

By C. L. Young

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Baird, as receiver, v. Burke County.

This action was brought to restrain the collection of certain taxes on bank stock for the years 1920 and 1921, attempted to be assessed under Section 2115, Compiled Laws 1913, as amended by Chapter 61 of the Session Laws of 1917, and under Section 1 of Chapter 220 of the Session Laws of 1919. A demurrer to defendant's answer was sustained. HELD: That after the enactment of Chapter 62, Special Session Laws of 1919, there was no law authorizing the assessment of taxes against bank stock; that assessments of bank stock attempted to be made for the years 1920 and 1921, were made without authority of law; that Chapter 300 of the Laws of 1923, which sought to validate such attempted assessments for prior years by giving effect to the statutes of 1917 and 1919, was an attempt to give a meaning to words used by prior legislatures contrary to their authority and natural import, and is not binding upon the courts; that the construction of statutes is a judicial function; that in construing statutes it is proper for courts to take notice of such contemporaneous history as led up to and probably induced the passage thereof; that the initiative and referendum provisions in the state constitution have not altered or affected the principle; that the fundamental purpose of legislation is to make every statute enacted by the legislature speak the will of the majority of the legislative agents chosen by the people; that the primary purpose of the legislature in enacting Chapter 300, Laws of 1923, was to put in the hands of taxing officials the means of enforcing collection from banks which had taken advantage of the absence of statutory authority for the levying or collecting of a tax upon their capital stock during the years in question; that the effect of striking Section 2 of the act therefrom through the referendum thereof to the people of the state was to strike from the act its primary purpose and to leave the remainder thereof self-contradictory and its legislative purpose completely subverted; and that by such removal of the inducement for the act therefrom, the entire statute falls.

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## THE ANNUAL MEETING

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The Cass County Bar is entitled to all of the commendation that was voiced by visiting attorneys who attended the annual meeting at Fargo this month, and more. Those in charge of the various features of the program knew what their share was and contributed that share. No five-ring circus could have been carried through its paces with greater precision. It was a convention thoroughly organized, perfectly and punc-